

PATENT  
ATTORNEY DOCKET NO. 01997/201006

Certificate of Mailing: Date of Deposit: August 30, 2004

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Janet D'Annunzio-Ellis

Printed name of person mailing correspondence

Janet D'Annunzio-Ellis

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Horvitz et al.	Art Unit:	1632
Serial No.:	09/993,420	Examiner:	S. Chen
Filed:	November 6, 2001	Customer No.:	21559
Title:	IDENTIFICATION AND CHARACTERIZATION OF A GENE WHICH PROTECTS CELLS FROM PROGRAMMED CELL DEATH AND USES THEREFOR		

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF ATTORNEY KRISTINA BIEKER-BRADY, PH.D., P.C.

I, Kristina Bieker-Brady, Ph.D., P.C., declare as follows:

I am a partner in the law firm of Clark & Elbing LLP and an attorney of record in the above-captioned case.

I first became aware of the abandonment of the above-captioned application on July 30, 2004, upon receipt of a Notice of Abandonment. I submit that the accompanying petition to withdraw the Notice is being promptly submitted as required by 37 C.F.R. § 1.8(b)(1).

On February 19, 2004, I signed correspondence entitled Reply to Notice of Allowance, which included a certificate of mailing printed directly on the correspondence, indicating that the correspondence, accompanying postcard, and check were being deposited with the United States Postal Service on February 19, 2004. A copy of the postcard bearing the USPTO stamp indicating that the items listed on the postcard were received by the USPTO on February 23, 2004 accompanies the Petition to Withdraw Notice of Abandonment enclosed herewith.

On July 30, 2004 I received a Notice of Abandonment which had been mailed July 27, 2004, indicating that the application had become abandoned due to lack of response to the Notice Regarding Drawings of April 22, 2004. It was upon receipt of the Notice of Abandonment that I first became aware that the application was abandoned. I never received the Notice Regarding Drawings mailed April 22, 2004 from the Patent and Trademark Office. In fact, as noted in the Petition to Withdraw Notice of Abandonment, the April 22, 2004 Notice cites a serial number that is different from that of the present application and apparently was mailed to an address in Osceola, Indiana and not to Clark & Elbing LLP at the correspondence address associated with Customer Number 21559.

All mail sent from the Patent and Trademark Office to any attorney or patent agent at Clark & Elbing LLP is opened, date stamped, logged, and docketed centrally before it is sent the attorney or patent agent. A review of Clark & Elbing's manual mail log and computerized docketing records from April 22, 2004 to August 27, 2004 provides no

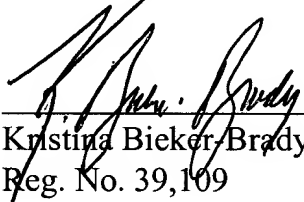
09/993,420  
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indication that a Notice Regarding Drawings was received in the present application from the U.S. Patent Office. Additionally, a search of the prosecution file and docket records indicated that the Notice Regarding Drawings was not received. A copy of the computer docketing record for the subject application is attached herewith.

All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: August 30, 2004

  
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Kristina Bieker-Brady, Ph.D., P.C.  
Reg. No. 39,109

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Friday, August 27, 2004

**Due Date List by Client**

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From 01-Jan-2004 To 31-Dec-2004

01997

Matter Number	Reason for Date	Action Type Action Base Date/	App. Number	Filing Date	Bill Atty	Super Atty	Other Atty(s)	Due Date/ Date Type	Final Deadline
01997-201	US 6 NOTICE OF RECORDATION	12-Nov-2003	09/993,420	06-Nov-2001	KBB	KBB	JNT	12-Feb-2004	
		ASSIGNMENT					JNT	Due Date	

Title: IDENTIFICATION AND CHARACTERIZATION OF A GENE WHICH  
PROTECTS CELLS FROM PROGRAMMED CELL DEATH AND USES  
THEREFOR

Matter Name: MIT 5934

Comments:

01997-201	US 6	REPLY	10-Dec-2003	09/993,420	06-Nov-2001	KBB	KBB	JNT	10-Mar-2004
			NOTICE OF ALLOWABILITY				JNT	Final	

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Comments:

01997-201	US 6	ISSUE FEE DUE	10-Dec-2003	09/993,420	06-Nov-2001	KBB	KBB	JNT	10-Mar-2004
			NOTICE OF ALLOWANCE				JNT	Final	

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Comments: postcard recvd 2/23/04;

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01997

Matter Number	Reason for Date	Action Type	Action Base Date/	App. Number	Filing Date	Bill Atty	Super Atty	Other Atty(s)	Due Date/ Date Type	Final Deadline
01997-201	US 6	PETITION TO REVIVE	27-Jul-2004	09/993,420	06-Nov-2001	KBB	KBB	JNT	27-Aug-2004	27-Jul-2005
		PETITION TO REVIVE						JNT	Reminder	

Title: IDENTIFICATION AND CHARACTERIZATION OF A GENE WHICH PROTECTS CELLS FROM PROGRAMMED CELL DEATH AND USES THEREFOR

Matter Name: MIT 5934

Comments:

01997-201	US 6	PETITION TO WITHDRAW ABANDONME	27-Jul-2004	09/993,420	06-Nov-2001	KBB	KBB	JNT	02-Sep-2004	27-Sep-2004
		NOTICE OF ABANDONMENT						JNT	Reminder	

Title: IDENTIFICATION AND CHARACTERIZATION OF A GENE WHICH PROTECTS CELLS FROM PROGRAMMED CELL DEATH AND USES THEREFOR

Matter Name: MIT 5934

Comments:

01997-201	US 6	INITIALLED 1449	12-Sep-2003	09/993,420	06-Nov-2001	KBB	KBB	JNT	12-Sep-2004	
		SUPPLEMENTAL IDS						JNT	Due Date	

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01997-201	US 6 PETITION TO WITHDRAW ABANDONME		27-Jul-2004	09/993,420	06-Nov-2001	KBB	KBB	JNT	27-Sep-2004	27-Sep-2004
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